

REMARKS/DISCUSSION OF ISSUES

Claims 1-13 are pending in the application. Claims 1-13 are rejected.

The Examiner is respectfully requested to indicate whether the drawings are acceptable.

Claims 1-3, 5, 7 and 10 are rejected under 35 USC 103(a) as being unpatentable over Yablonowski et al. (U.S. 6,535,859) (herein 'Yablonowski') in view of Hochstein (U.S. 5,783,909).

Yablonowski teaches a system and method for monitoring lighting systems. The system and method are based on measuring power consumption of a facility before and after retrofitting a lighting system with a power savings device, and charging a fee based on the power savings..

In contrast, in Applicant's invention, lumens generated from the lighting system or changes of light spectrum generated by the lighting system are measured, and a light usage fee is charged based on the lumens generated or light spectrum changes.

Hochstein is concerned with a totally different problem, that is, the diminution of luminous intensity of an LED or LED array, due to either a permanent degradation over time or a recoverable temperature-induced diminution, or both. See col. 1, lines 19-34.

Hochstein addresses this problem by providing a circuit which includes a sensor connected to a power supply for sensing changes in the luminous output of the LED, and for sending a signal to the power supply to increase the average current to

the LED to maintain the luminous intensity at a predetermined level. See col. 3, lines 22-30.

Thus, Hochstein's invention has nothing to do with assessing a fee for the use of a lighting system based on some measurable indicia of usage. Moreover, Hochstein contains no teaching or suggestion which would lead the skilled practitioner to substitute lumen output or changes of light spectrum for power consumption as an indicia of usage for such a lighting system.

In fact, in teaching that lumen output decreases with time and/or temperature, and sometimes reversibly with temperature, Hochstein supports a conclusion that lumen output would not be a reliable indicator of usage, and would thus lead the skilled practitioner away from Applicant's invention.

Accordingly, it is urged that claims 1-3, 5-7 and 10 are patentable under 35 USC 103(a) over Yablonowski in view of Hochstein, and it is urged that the rejection is in error and should be withdrawn.

Claims 4, 8, 9 and 11-13 are rejected under 35 USC 103(a) as being unpatentable over Yablonowski and Hochstein in view of Che et al. (U.S. 5,636,303) (herein 'Che').

Che is cited to show the feature of customer control of a lighting system via an input device.

Che teaches a filterless chromatically variable light source, such as an array of different colored LEDs, and means for selectively switching the LEDs 'on' or 'off' and for individually controlling the intensity of the LEDs, to thereby control the color and intensity of the output of the source.

Thus, Che has nothing to do with assessing fees based on some indicia of usage of a lighting system, and does not suggest any utility of his invention for such an application.

Thus, it would not be obvious in view of Che to add an input control means to Yablonowski's system, and even if it were, the resulting combination would not result in Applicant's invention, which uses indicia other than power savings to assess a usage fee to a customer.

Regarding claims 4, 8 and 11, without conceding patentability per se of these claims, they are nevertheless patentable by virtue of their dependency on claims 1, 5 and 10.

Regarding claims 9 and 12, since the combination of Yablonowski and Hochstein do not suggest measuring changes of light spectrum generated by the lighting system and determining a customers light usage fee based on the changes of light spectrum, for the reasons already advanced with respect to claims 1-3, 5-7 and 10, then the combination of Yablonowski and Hochstein and Che cannot suggest the additional feature of installing an input device for controlling the lighting system.

Regarding claim 13, none of the cited references alone, or in any combination, teach or suggest means for selecting a preprogrammed pattern of light to be emitted from a lighting system; means for measuring the use of the preprogrammed patterns of light; and means for determining a fee based on the use of the preprogrammed patterns of light.

Accordingly, claims 4, 8, 9 and 11-13 are patentable under 35 USC 103(a) over Yablonowski, Hochstein and Che, and it is urged that the rejection is in error and should be withdrawn.

In view of the foregoing, Applicant respectfully requests that the Examiner withdraw the rejections of record, allow all

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Amendment/Response

Reply to non-Final Office action of 24 March 2004

of the pending claims, and find the application to be in condition for allowance.

Respectfully submitted,


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